

January 03, 2018

Michael Cohen, Director
California Department of Finance
915 L Street
Sacramento, CA 95814

Dear Mr. Michael Cohen,

In accordance with the State Leadership Accountability Act (SLAA), the State Public Defender submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2017.

Should you have any questions please contact Mary McComb, State Public Defender, at (916) 322-2676.

BACKGROUND

The Office of the State Public Defender has a single mission: to deliver constitutionally required post-conviction legal services to men and women on California's death row. The Department has two basic business functions: (1) Legal functions, which include the work of the legal management team responsible for policies and practices concerning the delivery of the Department's mission to its clients; and (2) Administrative functions, which include Personnel Services, Information Technology, and Business services.

The Department has two offices, one located in Oakland, and the other in Sacramento. The structure of the Department is such that information concerning administrative functions and policy decisions flow downstream from upper management, while suggestions and recommendations on best practices in all areas percolate up from legal and administrative staff. Key management responsibilities are clearly defined and communicated to each manager within each section of the Department.

ONGOING MONITORING

As the head of State Public Defender, Mary McComb, State Public Defender, is responsible for the overall establishment and maintenance of the internal control and monitoring systems.

EXECUTIVE MONITORING SPONSOR(S)

The executive monitoring sponsor responsibilities include facilitating and verifying that the State Public Defender internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to:
Charlene Bennett, Chief Administrator.

MONITORING ACTIVITIES

The Office of the State Public Defender reviews, evaluates, and improves its systems of internal controls on an ongoing basis through internal monitoring of agency requirements and external control agency compliance requirements. On an ongoing basis staff complete their work in accordance with agency policies and procedures and external agency compliance requirements. Supervisors review completed work for adherence to these prescribed requirements. Supervisor authorization

requirements are built into many processes as prescribed by external control agencies. OSPD also has internal review and authorization requirements. Duties are assigned to ensure conflicts of interest are avoided, and access to agency assets is limited to authorized personnel who require the assets in the performance of their assigned duties. Probation reports are routinely completed and staff performance is evaluated annually after the probationary period. The administrative teams meet on various schedules (monthly, bi-weekly, ad hoc). Meeting topics and discussions are documented in agendas and in minutes.

ADDRESSING VULNERABILITIES

When vulnerabilities are identified managers endeavor to immediately address them. Serious issues are brought to the attention of executive management, which works with the manager of the area of concern to develop and implement a solution. OSPD modifies processes, procedures, policies and assignment of duties to address vulnerabilities. Additionally, the director and administrative managers work together to complete this SLAA process.

COMMUNICATION

Monitoring roles are defined and documented in duty statements, policies and procedures, and classification specifications. Existing channels for communicating inefficiencies and vulnerabilities are up and down between staff and management and across the organization. The director maintains an open communication with all employees of the agency and regularly receives positive and negative feedback. Staff are informed of ongoing monitoring and compliance review activities; and monitoring results through meetings and direct involvement. Vulnerabilities are generally discussed with those involved as they arise.

ONGOING MONITORING COMPLIANCE

The State Public Defender is in the process of implementing and documenting the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the State Public Defender systems of controls and monitoring.

RISK ASSESSMENT PROCESS

The following personnel were involved in the State Public Defender risk assessment process: Executive Management, Middle Management, and Front Line Management.

RISK IDENTIFICATION

The following personnel were involved in the Office of the State Public Defender's risk assessment process: the State Public Defender, the Chief of Administration, and the Chief of Business & Fiscal Services.

The Office of the State Public Defender's risk assessment process included the following:

OSPD has had a change in Director, Chief of Administration, and Chief of Business & Fiscal Services within the last 24 months. As part of the acclimation process, the incumbents have engaged in a continuous review of agency functionality to arrive at the areas of risk identified. Additionally, the Director regularly meets with legal and administrative management to discuss and address issues or concerns including the agency's ability to meet compliance criteria of its control agencies.

RISK RANKING

The risks were listed on the Risk Assessment Matrix, then ranked in order of likelihood and degree of negative impact on the agency's ability to complete its mission if the risk were to be left unaddressed. Because a large number of the mission critical legal staff above the entry level has 15+ years of service, it was determined that OSPD would focus on the Risk of *Staff-Key Person Dependence, Succession Planning and Compliance-Staff Adherence to Policies, Procedures, or Standards; Resource Limitations*. The principle consideration factor for taking action on these risks was the negative impact to the agency's ability to effectively represent its clients should the risks not be addressed.

RISKS AND CONTROLS

RISK: OPERATIONS -INTERNAL-STAFF—KEY PERSON DEPENDENCE, WORKFORCE PLANNING

A significant number of experienced attorneys are eligible for retirement. When they leave state service, the institutional knowledge, history, and business continuity possessed by those employees is subject to vanish.

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The failure to retain and transfer institutional knowledge could result in a steady increase in employee turnover and further loss of institutional knowledge, translating to lower institutional efficiency

CONTROL A

To address this risk, OSPD has entered into a contract for a workforce assessment with CPS HR. CPS HR will document and identify critical knowledge held by those key employees and review OSPD processes to develop a plan for spreading knowledge more widely. This will reduce the key person reliance as well as facilitate the development of a higher functioning workforce.

RISK: COMPLIANCE-INTERNAL-STAFF ADHERENCE TO POLICIES, PROCEDURES, OR STANDARDS

Failure to adhere to compliance standards could result in loss of delegated authority for the department to manage its own network and other IT systems.

The OSPD Information Technology (IT) Unit is not fully compliant with control agency requirements for an Executive Branch department.

The loss of delegated authority for the department to manage its own network and other IT systems.

CONTROL A

OSPD will recruit to fill the vacancy created by the recent retirement of the former IT manager. This position will be responsible for developing and implementing a plan to bring the department into full compliance.

CONTROL B

The OSPD Director will ensure the incumbent is properly oriented and informed about OSPD's status as an Executive Branch department. The Director will also monitor the new manager's attendance at control agency meetings, require regular updates on changes and new mandates, provide support and resources so the department can achieve compliance, as well as facilitate and require the new manager to establish and maintain business contacts with other IT managers in state departments and the control agencies.

CONCLUSION

The State Public Defender strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Mary McComb, State Public Defender

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency